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A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

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CORRESPONDENCE

Noseyest of them all?

Picking last year's "top ten most intrusive, and least rational, exercises in lawmaking" ("Ray Haynes' Nosey Awards," Legislative File, *CPR,* Nov./Dec. 2003) must have been tough — after all, irrational and intrusive cover just about everything the Legislature does. How possibly to find the top ten? Indeed, how can even these ten be ranked intelligently? Which is dumber: bringing state power to bear on pet shops or worrying about parents accidentally giving their kids alcoholic jello shots?

The real irrationality in all these Nosey Award winners is parading plain idiocy as justification for bills that clearly serve no public interest, just as clearly do us all the gross disservice of depleting our freedom, and are really motivated by big egos trying to make themselves seem important by stirring up trouble for people. This is the sort of thing we are supposed to grow out of by age 8 or 9.

James Hackbarth
Fresno

Metaphorical demise

Sacramento Spectator ("Dems mull their options," *CPR,* Nov./Dec. 2003) says the hard-core socialists running the Democrat caucuses will "fight to the death" to defend the ruinous policies they heaped on the state during the Davis years. Let's hope he is right, though only metaphorically so — fight to their *political* deaths. We're not abortionists after all; getting them to give up (or be thrown out by the voters) and go away will be quite sufficient.

John Franklin Smith
San Diego

Business (not) as usual

It was good to see Gov. Schwarzenegger follow Gregory Sanford's advice ("Schwarzenegger's Mandate: Be Governor," *CPR,* Nov./Dec. 2003) to "use aggressively the discretionary authority this year's budget and budget trailer bills (AB 1765, sec. 27, and AB 1756, sec. 56) give the governor to control considerable portions of state agencies' budgets." Legislative Democrats' ham-handed attempt to pressure Schwarzenegger by starving local governments while stirring up one of their tired-out public relations outbursts blaming *him* for *their* refusal to act is just the sort of gambit that usually throws Republicans into full retreat. By calmly bypassing the Democrat obstructionism, the governor did indeed show he "means business," as Mr. Sanford said he would.

Thanks also for the Milton and Rose Friedman excerpt from *Free to Choose.* Intelligence honestly employed to figure out how to make government work as most people want it to is obviously what politics should always be about, and almost never is.

Danielle Sampson
Los Angeles

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SACRAMENTO SPECTATOR

Schwarzenegger rolls

The Donkeys are at a loss as to how to deal with Governor Schwarzenegger's forcefulness. From the State of the State address to his budget proposals to his insistence on workers comp reform and no new taxes, Schwarzenegger has seized the initiative, putting the Democrats back on their heels. So far, the Dems' idea of new ideas has been to raise taxes and re-regulate business. They breath new life into Yogi Berra's quip about *deja vu* all over again.

Publicly, the Governator and his team are mainly sweetness and light, talking bipartisanship and working together. And they are largely sincere — life *would* be easier all around if the Democrats would return to earth from their base camp on planet Marx. But in unguarded moments the governor's aides also admit to knowing how unlikely it is that Speaker Fabian Nunez and Senate Democrat Leader John Burton will be able to control their caucuses' hard core leftists — even supposing they want to.

So the "corner office" is realistic enough to know they will have to play hardball much of the time. Indeed, they've already shown themselves willing and able to do so. The State of the State speech, while powerfully delivered in an upbeat, optimistic tone, was full of red meat for the GOP, with Democrats essentially told to "go along or I'll go to the people." This threat unnerves savvy Democrats aware that the Legislature's approval ratings are even lower then Gray Davis's at his lowest. The key question, to be answered in the next few weeks, is which they fear most: facing voters roused by a popular governor or alienating trial lawyers and public employee unions.

Senator Jim Brulte and newly-minted Assembly GOP Leader Kevin McCarthy have done well so far in keeping their troops together behind the governor — no piece of cake at times, as with the $15 billion bond measure. But a solidly-united GOP legislative block gives any GOP governor enormous added leverage with a Democrat legislative majority. Whenever George Deukmejian or Pete Wilson enjoyed such support — which they did during much of their terms — they were consistently able to outmaneuver the Democrat opposition.

If the governor makes effective use of Democrat tactical squabbling, combining it with unified GOP caucus support, he'll be powerfully positioned to get most of what he wants — after much blood, toil, tears, and sweat. Signs so far are promising. In the Assembly, Democrat Hispanics and ultra-liberals are still bitter about losing the recall, the car tax, and illegal aliens' drivers licenses. But insiders say the bulk of lower-house Democrats favor a "go along to get along" approach to most of what the governor proposes, at least for now.

The Senate is a completely different story. Though Burton swings between Irish *bonhomie* and far-left bombast, he is dealing with a caucus much further to the left than are the Assembly's donkeys. The likes of Gil Cedillo, Sheila Kuehl, Byron Sher, and Tom Torlakson lead and animate the "war party," which frankly plays to Burton's instinctive ideology, even when his political antennae would caution a more patient, less combative approach.

Bottom line in this Capitol poker game is that voters have dealt legislators a weak hand in the form of almost sub-zero approval ratings. The governor, riding high, already holds three aces, with a couple more cards left to draw. He and his advisors seem to realize this, and intend to press their advantage, even as their rhetoric remains more soothing than incendiary.

— A. P. C.

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California's official scofflaws

Liberals used to denounce racism as an 'ancient evil.' In California, their clinging devotion to it now shows why it has always proved so hard to stamp out.

HAROLD JOHNSON

"WHAT PART of 'No' don't you understand?" That's my question for the many government officials in California who cannot seem to comprehend Proposition 209, the anti-bias initiative passed by voters in 1996.

Proposition 209 added to the state constitution a simple directive: Government "shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education or public contracting." In sum, no quotas. No playing favorites by race or sex.

This principle — that no one should be treated less equally because of color or chromosomes — was the core of the Civil Rights movement. It was, literally, the hope given voice by Dr. Martin Luther King August 28, 1963, in his thrilling "I Have a Dream" speech at the Lincoln Memorial. Appropriately, the text of Prop. 209 was modeled on the Civil Rights Act of 1964.

But the idea that people are more than their pigment seems to be beyond the grasp of a lot of bureaucrats. Surveys by Pacific Legal Foundation have found dozens of cities, counties, utility agencies, and school districts where preferences and demerits are still awarded because of race and sex. More than seven years after the campaign over Prop. 209, you could be forgiven for not realizing that it won at the polls.

Nowhere is the nose-thumbing at the law more flagrant than in San Francisco. The City by the Bay still practices systematic bias against white males in public-works contracts. When bureaucrats review a bid from a black, Latino, or woman contractor, they pretend the bid price is 10 percent lower than it actually is. Meanwhile, bids from men who happen to be white are reviewed at their full cost.

The City has been nimble at fighting off challenges to this anti-caucasian scam. Two years ago, when sign-builder Coral Construction brought a lawsuit, San Francisco attorneys resorted to hair-splitting procedural arguments, persuading a Superior Court judge that the company didn't have standing to sue because no further sign-construction programs were on tap. Even if Coral gets that ruling overturned on appeal (argument was heard by an appellate court in San Francisco January 13) the case must start again at the trial level. So San Francisco has bought itself years to continue handing out racial patronage.

Local officials don't even try to hide their scorn for Prop. 209. In 2001, City Attorney Dennis Herrera penned a column for the *San Francisco Examiner* boasting of his "winning streak" against efforts to enforce the initiative. He complained about Pacific Legal Foundation lawsuits to uphold Prop. 209 as a nuisance that had "[forced] the city to spend thousands of taxpayer dollars." Of course, if the City simply obeyed the law, there would be no need to go to court.

THE BAY AREA isn't the only place where contracting officials shut their eyes to their duty to be colorblind. Los Angeles County, for instance, still publishes a "goals and timetables" schedule for hiring nonwhites and women on county contracts — ("Goals for mi-

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CPR *Editorial Board member Harold Johnson is an attorney with the Pacific Legal Foundation (www.pacificlegal.org) in Sacramento.*

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THE FRONT LINE

The March Primary

In an election year, for conservative grassroots activists, the early action is in the state's legislative Primaries. The one real state Senate primary fight is Ken Maddox v. John Campbell in the race to replace Ross Johnson in the central Orange County 35th Senate District.

Campbell is a conservative on all issues. Maddox is a social conservative who has, from time to time, returned to his union roots, voting for minimum wage bills, and project labor agreement legislation. The fight in this safe Republican district has generated some interesting patterns of support, with some traditional Democrat interest groups, mainly public employee unions, lining up behind Maddox. Campbell has garnered the strong support of the district's traditional business interests.

The California Republican Assembly, however, decided Maddox was the man to endorse, apparently to punish Campbell for his early support of Schwarzenegger. An interesting response, given that the unions have been among the chief promoters of all that CRA finds wrong in the Democrat Party. Focusing on the small picture — the guy supported Schwarzenegger — the group ignores every other issue and all the race's implications, both short- and long-term, for the overall battle between the Parties and between conservatives and liberals in Sacramento and Orange County. It is one of the things that is wrong in the grassroots.

Several Assembly races see conservative candidates in disarray. In the 73rd Assembly district (where incumbent Pat Bates is termed-out), two good conservatives, Jim Gibson and Mimi Walters, threaten to split the vote, helping the union's guy, Tom Wilson.

In the 70th, now represented by John Campbell, California Republican Assembly decided to go with Chuck DeVore over Don Wagner, both good conservatives. Rumor has it that at the endorsing convention, Wagner had the votes, but DeVore supporters changed the minds of the delegates by telling them that DeVore would be the most effective representative of the conservatives, not because of his principles, but because he would savage third candidate Cristi Christich (supported by the New Majority) better than Wagner. (Pro-gun groups indicate that Christich has given the best answers on her questionnaire from a pro-gun perspective, but these days, personality, not principles, drive too much of the grass roots activity).

In the Ventura County race to replace Tony Strickland, the local Republican Assembly endorsed Deputy DA Mike Robinson over Audra Strickland, probably because of Tony's vocal support (at least in Bakersfield) of Kevin McCarthy's leadership. Conservatives are all over the map in the race to replace Steve Samuelian and Abel Maldonado in their Fresno and coastal districts. In the race to replace Rancho Cucamonga's Bob Dutton, Elia Pirozzi and Mike Morrell threaten to split conservative votes.

All of this illustrates a glaring lack of unifying principle, and consequent coordinated organizing and action, among conservatives statewide. Each of these Primary battles has degenerated into fights centering on personalities. Combined with non-conservatives' and liberals' active (and seemingly coordinated) candidate recruitment in swing districts, conservatives' disarray could result in their losing influence, and perhaps even in an ideological sea-change, in next year's Assembly GOP caucus.

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nority participation for each trade — 28.3 percent; goals for female participation for each trade — 6.9 percent") — so managers are on notice that their personnel decisions are monitored for racial and sexual correctness.

At the Sacramento Municipal Utility District ("SMUD"), contractors get bonus points on their bids if they're of the desired color or gender. The discrimination comes with a twist: In prime contracts, preferences go to blacks and Latinos but not Asians, while in subcontracts, Asians and blacks, but not Latinos, are favored. The scheme was struck down by a Superior Court judge, but SMUD has refused to abandon it while pursuing an appeal.

Some school districts are equally obstinate. Even after Prop. 209, the Pasadena Unified District has used skin color to decide which students can attend magnet schools.

Berkeley uses the Orwellian term "controlled choice" to describe its race-obsessed system to decide where K-6 students will attend school. Students are categorized as "black," "white," or "other," and the district tries to make each school's racial makeup mirror the overall district population. Parents can suggest the school that they'd prefer their child to go to, but their choice can be overruled if the kid's color fits better at a different school.

A similar policy in Huntington Beach schools was struck down by a California appellate court. But Berkeley school officials aren't letting that stop them from treating their students as checkers on a board. "Until I'm told by a higher authority not to, I'm going to continue to use race as a criteria," one schoolboard member harrumphed last summer. "Right-wing Nazis are finally after us," the same official exclaimed, after Pacific Legal Foundation went to court to challenge the district's policy, which is much more about "control" than "choice."

In the Los Angeles Unified School District, teachers are the ones treated as color-coded pawns. Jim

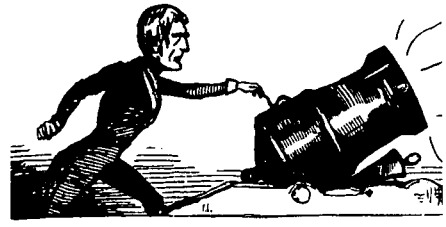
WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

Does gun control work? This is what the scientists at the Centers for Disease Control and Prevention (CDC) said:

"During 2000-2002, the Task Force on Community Prevention Services (the Task Force), an independent nonfederal task force, conducted a systematic review of scientific evidence regarding the effectiveness of firearms laws in preventing violence, including violent crimes, suicide, and unintentional injury. The following laws were evaluated: bans on specified firearms or ammunition, restrictions on firearm acquisition, waiting periods for firearm acquisition, firearm registration and licensing of firearms owners, 'shall issue' concealed weapon carry laws, child access prevention laws, zero tolerance laws for firearms in schools, and combinations of firearms laws. The Task Force found insufficient evidence to determine the effectiveness of any of the firearms laws or combinations of laws reviewed on violent outcomes. (Note that insufficient evidence to determine effectiveness should not be interpreted as evidence of ineffectiveness.)"

Even though the researchers felt compelled to hedge their bets at the end with the concluding note, one supposes that if they'd found even a shred of a trend indicating that these laws had any affect on crime or safety the news would have been shouted from the mountaintops. The truth is that the nation's top eggheads could find *no* impact!



California has every type of law the Task Force reviewed. California is a shining example of gun control failure. But who said gun control was about facts? It's about emotion. It's about the heart hoodwinking the brain.

Were California's Legislature a bastion of truth, a place where common sense, logic, and honesty ruled the day, my job with this column would be over. I would be free to write about any of my other passions — cooking, wine making, hunting, fishing, music ... alas, it is not, which is why liberal Democrats are divining new ways to infringe our God-given rights.

See you next issue. CPR

Sam Paredes is executive director of Gun Owners of California.

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LEGISLATIVE FILE

Disintermediation!
by Larry Stirling

What would it take to fix Workers Compensation? California employers pay *more* than any in the nation and truly injured workers receive *less* than any in the nation. That makes the problem fairly clear: the middlemen. The solution? Disintermediate him. Here's how:

Workers Comp dispute resolution now involves at least three lawyers: one on each side and a very liberal administrative law judge (ALJ). Those three lawyers are not needed. Instead, when a dispute arises, the workers comp administrator should follow the format of the American Arbitration Association (AAA).

That would mean sending the parties a list of seven interested and qualified lawyers. Each side strikes off one in turn and the remaining lawyer becomes the arbitrator. That lawyer meets with the parties, hears their positions, and makes a decision. If, before or after the arbitrators' hearing, the parties want to settle, they may and the settlement, as long as it is in accordance with law, will be binding on the parties and the workers comp system.

Hon. Larry Stirling is a former legislator and former judge now in private practice in San Diego.

If either party disputes the arbitrator's decision, they can start over in Superior Court, where the dispute would receive full review before a judge with no jury.

If the Superior Court decision is not satisfactory, the matter can be appealed up the judicial system with its quality controls and fast-track rules, none of which are available to Workers' Comp Administrative Law Judges.

The same process employed to select arbitrators should be followed in workers' comp-related medical examinations. A list of participating doctors can be provided. Each side strikes off names until one remains. That doctor does the one *and only* independent medical examination the system pays for. If anyone wants additional medical examinations, *they* can pay for them.

The AAA system promotes a corps of lawyers and doctors motivated to establish a reputation for fairness and objectivity. The current "centrifugal" system invites creation of a doctor/lawyer corps best known for dogged pursuit of one side's advantage against the other. This maximizes costs, waste of resources, and bad feeling. No one is well served by this system.

Under these reforms, the state could eliminate the ALJ corps and the biased Workers Compensation Appeals Board. (Our under-worked courts can handle this job.)

Also, the Legislature should eliminate all presumptions adverse to the employer such as those about the treating physician's testimony, about delays in filing, and about compensation. The state should create an independent auditor as a constitutional office. All state audit staff should be transferred to the new constitutional officer whose office would investigate all cases of suspected workers comp, welfare, and medical fraud.

These changes will bring reason and positive incentives to the program. They will promote a corps of honest participants rather than one-sided advocates.

And the AAA process will wring out about two-thirds of dispute resolution costs. Most cases will settle without a court hearing. Truly injured people will get benefits consistent with their loss while fraudulent and *de minimis* claimants will be dismissed. CPR

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Friery, a Van Nuys High School physical-education teacher, discovered this when he tried to apply for a position at a nearby magnet school several years ago. He was told he wasn't eligible. You see, he's white and, under a district formula, the school already had enough white teachers. Federal Judge Nora Manella, a former U.S. attorney for Los Angeles under the Clinton Administration, upheld the district policy, giving Prop. 209 a disjointed and dismissive reading. Friery's appeal is now before the Ninth Circuit.

ONE THING seems clear: The officials who treat Prop. 209 as if it were written in disappearing ink have nothing to fear from California's top law-enforcer. Attorney General Bill Lockyer has not filed a single enforcement action against a Prop. 209 scofflaw. In fact, he personally argued before the state Supreme Court in favor of San Jose's racially biased contracting program (the court struck it down anyway), and his spokesman told the *San Francisco Chronicle* two years ago that the AG's office was still using racial and gender "goals" in hiring and promotion.

Little surprise, then, that Lockyer hasn't questioned the University of California's suspicious new approach to sifting applications from high-school seniors. This "comprehensive" review of applicants to UC's individual campuses downplays academic performance while stressing subjective "life challenges" such as poverty, being a shooting victim, or being raised by a single parent. In unguarded moments, more than one UC official has hinted that the aim is to bring back quotas — in camouflage.

After one of San Francisco's victories in getting a trial court to stall a challenge to the City's race preferences, a giddy response came from "Americans for a Fair Chance" (AFC), a pro-quotas alliance that includes the NAACP Legal Defense and Educational Fund, Inc., the Mexican American Legal Defense and Educational Fund, the Lawyers Committee for Civil Rights Under Law, and the National Women's Law Center. AFC saluted the City by the Bay for "valiantly defending this program."

"[A]ffirmative action — even in California — is alive and well," crowed the press release.

Bottom line: The quota commandos — those public officials actively fighting Proposition 209's mandate for equal rights and equal treatment — are in no mood to start honoring the law. Prop. 209's enactment did not end a struggle, it launched one. The battle to see people judged by merit and character, not color, is just beginning. CPR

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Final Blush

I keep wondering who will be
The Democratic nominee
For president. Will it be Clark
Who somehow lights a latent spark?
Or Dean who holds on to his lead?
Or Gephardt who the voters heed
At last? Or maybe Lieberman,
Who now appears an also ran?
Or Kerry who thinks Vietnam
Makes him the Demos great "I Am?"
Who knows which one of these will win
While others take it on the chin?
One thing we know, when all is done
Kucinich, Mosely-Braun, Sharpton
Ere this month ends will fade from view
Leaving just the doughty few
To woo us with their campaign jive,
Striving to keep their hopes alive.
One wonders why. At final blush
There's none today can beat George Bush.

— by Joy Skilmer*

** The political verse of Joy Skilmer, né Lyn Nofziger, is available at both Barnes and Noble.com and Amazon.com and from MND Publishing, 573 Marina Rd., Deatsville, AL 36022. Keep up with Lyn's "musings" at: www.lynnofziger.com*

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In Need of a Miracle

The bond-and-spending-cap-deal between the governor and the Legislature marks only the beginning of a long, Byzantine journey.

M. DAVID STIRLING

Governor Schwarzenegger's first State of the State speech allows for a few general conclusions: that California's historic budget crisis is now complicated enough to warrant Rube Goldberg's admiration; that California's political machinations have become so bizarre that in book form they would be considered fiction; that the bond-and-spending-cap-deal reached between the new governor and the liberal Democrat-controlled Legislature in December marks only the beginning of a long, Byzantine journey; and finally, that salvaging the fiscal integrity of the Golden State will take a miracle.

The state constitution requires only that the governor propose a balanced budget; it does not require that the Legislature enact, or that the governor or Legislature operate within, a balanced budget. Because of this, over the four year period, 1999 to 2002, the Legislature spent at a rate 10 percent greater than incoming revenues – and Governor Davis let them do it. Stated in monetary terms, after exhausting the $10 billion surplus that was in the state treasury when 1999 began, they continued spending above revenues until an accumulated debt of $38 billion was created by the end of 2002.

Annual deficits during that period were covered through short-term loans, repayable under the next year's budget. Finally, last summer, Davis and the majority leadership decided that an infusion of new revenue was necessary to cover their overspending. When minority-Party legislators unanimously refused to go along with their proposed tax increases, Governor Davis and the majority members did two things: first, Davis unilaterally triggered a tripling of the car tax – annually, $4 billion in revenue — and, second, the Legislature enacted a $10.7 billion long-term deficit-reduction bond measure.

California's Constitution, in language going back to the original document of 1849, declares: "The Legislature shall not, in any manner, create any debt or debts ... exceeding the sum of ... $300,000 ... unless ... passed by a two-thirds vote of ... each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all votes cast ...." (Article XVI, section 1.) Either because they feared their "deficit-reduction" bond measure would implicate their reckless overspending, or because they feared it might not garner "a majority of all votes cast" at a statewide election, Davis and the Legislature declined to place the bond measure before the voters for approval.

In September 2003, Pacific Legal Foundation filed suit challenging the bond measure on grounds that without statewide voter approval it violated the state Constitution. The media covered this court challenge extensively during the recall campaign, with most legal analysts predicting that, unless submitted to the voters, the bond measure would be overturned. Immediately following the election, and several times during the transition period, Governor-elect Schwarzenegger said he wanted to go forward with the bonds in the right way — submitting them to the statewide electorate.

Shortly after taking office November 17, the governor called the Legislature into special session and announced his plan to keep California afloat in the short term. His plan consisted primarily of (1) a $15 billion, 30-year bond measure to go before the voters for approval at the March 2, 2004, Primary election, and (2) a constitutional cap on future state

Pacific Legal Foundation Vice President M. David Stirling was a member of the Revenue and Taxation and Ways and Means Committees in the California Assembly. He may be reached at mds@pacificlegal.org; website: www.pacificlegal.org.

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spending. Given the new governor's election mandate to control excessive legislative spending, and because any kind of spending limit causes heartburn among spendthrift Legislative leaders, the spending cap immediately became the centerpiece of special session negotiations.

The governor's opening demand was a general fund spending lid for next year's budget of $72 billion (which would require a $14 billion spending reduction from the current year), and authority for him to cut spending if a deficit emerges during the year. The majority leadership would accept nothing less than an $83 billion spending cap. (For reference, Governor Pete Wilson's last ('98-'99) general fund budget spent $57 billion.) Knowing the new governor desperately wanted his bond measure on the March ballot — and required a two-thirds legislative vote to put it there — legislative Democrats played hardball. They rejected the governor's proposed spending cap and went home. Within two hours, Moody's dropped California's bond rating to near the bottom of its investment grades: the same level as Puerto Rico, the District of Columbia, and Lithuania. The Secretary of State added pressure by repeatedly warning that state law would forbid accepting measures for the March 2 ballot after December 5.

Everyone understood this deadline was somewhat flexible, but the governor knew that insisting on his $72-billion base-year spending cap could keep his bond proposal from making the March 2 ballot. Staring at his diminishing choices, the governor compromised. By the end of the following week, both houses had voted to place a $15-billion, nine-year pay-off bond measure on the March ballot (Proposition 57.) In return, Schwarzenegger agreed to the Legislature's watered-down spending cap, requiring only that future annual spending not exceed annual revenues, and including a rainy-day fund for unexpected emergencies (Proposition 58.) *Sacramento Bee* political commentator Daniel Weintraub observed that "all three elements (of the deficit-fix compromise) are flawed, perhaps fatally so." The spending cap, he pointed out, contains "a loophole large enough to let future legislators and governors drive a California-sized mortgage through."

Convincing voters to approve the historic bond measure will be no slam dunk. Financial analysts at *Bloomberg News* characterize the measure as "the biggest-ever U.S. sale of a corporate or municipal bond." State Treasurer Phil Angelides, who will have the job of selling the bonds if the voters approve them, called using such a large bond to address the state's accumulating debt "reckless" and a "huge mistake." Also, respected, nonpartisan Legislative Analyst Elizabeth Hill, the Legislature's top budget adviser, cautioned that, with bonds, "future taxpayers will be paying for past spending." "Borrowing," she warned, "fails to address the underlying problem the state of California is facing." Hill urged the painful, but only true solution to that problem: "Bring current law expenditures and current revenues into line."

In addition, voters will be confronted March 2 — perhaps to the point of confused inaction — with two other significant ballot measures. First: Proposition 55, the "Kindergarten/University Public Education Facilities Bond Act of 2004," which asks voters to approve $12.3 billion in general obligation bonds. "General obligation" bonds' annual principal and interest payments to bond purchasers come from the state's general fund, the same fund from which the $15 billion bonds would be paid. Even without considering the billions in previously issued "G.O." bonds, serviced annually from the state's general fund, payments on the Prop. 55 bonds, especially if taken together with the governor's new $15 billion in bonds, would make for an enormous and priority hit on the state's general fund.

Second: Proposition 56, the so-called Budget Accountability Act, also slated for the March ballot, would significantly diminish one of Prop. 13's primary taxpayer safeguards: the "super-majority" (66 percent) requirement to raise taxes and pass the annual state budget, lowering it to 55 percent. Prop. 56 will be heavily supported by the same legislative big-spenders and their spending lobby supporters responsible for the state's current fiscal mess. It would allow them to increase taxes solely within their own caucus. With $60 billion of tax-increase proposals currently pending in the Legislature, Prop. 56 would wreak havoc on any economic recovery the governor could hope to secure.

With all the competing measures and messages, voter approval of the $15 billion bond measure is far from certain. Recognizing that possibility, the governor has asked the Attorney General to seek court approval of the earlier-enacted $10.7 billion bond measure that Governor Davis and the Legislature failed to submit to the voters. Pacific Legal Foundation has again challenged those bonds as unconstitutional. The California Supreme Court will have the final word on this issue. If it rules these bonds invalid without a

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statewide vote, the earliest the Legislature could put them on the ballot is November 2004 – far too late to rescue the state from the fiscal abyss. But if the Court somehow upholds the bonds, it will be the first time in history such indebtedness has been allowed without voter approval. Such a ruling would consign to the scrap-heap voters' ability to protect themselves and their children from politicians lacking fiscal integrity and discipline.

Perhaps California really *will* need a miracle.

THE WORKING PRESS

Running scared?

The Chronicle releases a reporter for creating the 'appearance' of bias. Are the Coulter/Goldberg best sellers attracting some editors' attention?

GEORGE NEUMAYR

THE *SAN FRANCISCO CHRONICLE* reached a settlement late last year with Henry Norr, an ousted technology columnist and reporter for the newspaper. The *Chronicle* had canned Norr last spring after it came out that he had engaged in anti-war hi-jinks during the war in Iraq. A bitter Norr managed to extract a settlement from *Chronicle* brass.

"Because I didn't violate the ethics policy the *Chronicle* had in place at the time, it is clear I was fired because of my political views — my opposition to the war in Iraq and Israel's occupation of Palestine," Norr said. "That is unfair, and it is a clear violation of California and San Francisco law, not to mention basic democratic principles. I think I'm entitled to my job back, and my politics wouldn't prevent me from covering technology effectively in the future, any more than they did in the past. But since the *Chronicle* has said it may never give me a byline again, I've decided to accept financial compensation and my pension and move on to other things."

Robert J. Rosenthal, the *Chronicle*'s managing editor, explained that the paper had to fire Norr. His bias was too bald. "The issue here was never about personal political beliefs, but rather about the *Chronicle*'s commitment to its readers to serve as a trustworthy and objective news source. To that end, the paper requires its journalists to abide by an ethical code that includes the avoidance of the appearance of a conflict in the ability to report events without bias," Rosenthal said. "Any journalist who assumes a prominent public role in any political issue inevitably creates the appearance of that conflict. When a reporter brings about that ethical conflict, as occurred here, the unfortunate but necessary result is a separation," he said.

Do the Ann Coulters and Bernard Goldbergs have the Rosenthals running scared? Not so long ago, Norr's anti-war stunts might have earned him a promotion. Perhaps to chief editorial writer.

* * *

Media watchers at Laobserved.com reported a peculiar story in December about *Newsweek's* West Coast Bureau Chief David Jefferson. Last year Jefferson left *Newsweek* to take a job as associate editor of the *Times* editorial pages. He lasted at his new post for all of one day. He reported to the *Times* on a Monday. By Tuesday, he was gone. "Britney's marriage lasted longer," said *Los Angeles Times* Editorial Page Editor Janet Clayton. Was Jefferson's vanishing act (he returned to his job at *Newsweek)* some sort of commentary on the *Los Angeles Times* editorial page?

JEFFERSON ISN'T the only *Times* recruit to leave the paper within moments of entering the *Times* building. Wisconsin columnist Rob Zaleski recently recalled the surge of panic he felt "in the fall of 1984 ... after I'd made the biggest bonehead mistake of my career: I quit my job as sports editor of this paper and took a job with the *Los Angeles Times.*

Mr. George Neumayr is California Political Review's *press critic.*

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Oh, the new job itself was fine. I had my own office, with fresh flowers every day and a spectacular view of the Valley. But once my feet returned to Earth and I took a good look around, I realized I couldn't in good conscience raise three young girls in such a wild and amoral place."

♣ ♣ ♣

Los Angeles Times Editor John Carroll should recirculate his famous memo from last year in which he told his reporters "we are not going to push a liberal agenda in the news pages of the *Times.*" In December, his reporters were back to their old liberal tricks, running stories like "The Knot Is Eternal in Chile," a *de facto* front-page editorial against Chile's prohibition on divorce. The subhead read: "With divorce illegal, thousands of couples live double lives until death parts them, or else engage in a legal farce to annul their union."

THE *TIMES* reporter Hector Tobar implicitly blamed this on the anti-divorce prohibition rather than on dishonest individuals. Tobar's piece implies Chile is terribly benighted not to embrace the lax divorce laws of the West. Carroll might inform his reporter that establishing legal divorce isn't exactly an antidote against "legal farce."

"Chile is the only country in the Western Hemisphere where divorce remains illegal. As in years past, a bill that would allow couples to divorce is slowly wending its way through the Chilean Congress. The first such proposal was put forward in 1910. All have failed," an evidently disappointed Tobar writes. "The new proposal has both 'divorce-rights' and 'pro-marriage' camps up in arms. It would allow a couple to be divorced only after a three- to five-year cooling-off period. That's too long for those calling for the legalization of divorce, who say they will not back the bill ... For the time being, then, Chile's strange *status quo* will continue." Strange *status quo?* Is it any stranger than the *status quo* in America where half of marriages end in divorce?

"Thousands of working mothers remain married to spouses who long ago abandoned them. But the famous and affluent dissolve their marriages through a Chilean legal farce known as *la nulidad,* or annulment, which requires the couple and eight witnesses to lie in open court," writes Tobar. The law requires that witnesses lie? That probably would come as a surprise to the authors of the law. Tobar appears to be equating the abuse of a law with the law itself.

He goes on: "Some, meanwhile, spend small fortunes in attorney fees to resolve disputes over children and property with people to whom they remain married only in the strictest legal sense. These proceedings can require many visits to civil court, because a husband can be sued to provide for his wife and children, even if his wife is living with someone else."

Almost every word in the story is used to question Chile's holdout status against western divorce laws. The story is exhibit A of what Carroll wrote last year to his reporters: "I'm concerned about the perception — and the occasional reality — that the *Times* is a liberal, 'politically correct' newspaper. Generally speaking, this is an inaccurate view, but occasionally we prove our critics right."

♣ ♣ ♣

Imagine if a conservative columnist likened a class of humans to insects. Imagine the uproar that would follow. But no such reaction occurred after national columnist Michael Kinsley, a liberal media darling, compared human fetuses to mosquitoes. "The week-old embryos used for stem cell research are microscopic clumps of cells, unthinking and unknowing, with fewer physical human qualities than a mosquito," wrote Kinsley last fall in a column for *The Washington Post.*

Why would Kinsley make such a remarkably crass statement? Because he wants human embryos treated as casually as one would treat a mosquito. Or perhaps mosquitoes are entitled to *more* respect? According to Kinsley's bizarre formulation, week-old embryos have "fewer physical human qualities than a mosquito," which would suggest mosquitoes have some human qualities?

But if week-old human embryos have "fewer physical human qualities than a mosquito," why are they so valuable as spare parts for the embryonic medical research Kinsley advocates? Why don't Kinsley and his friends harvest mosquito parts?

Kinsley's column was a reminder of the insidious politics of language. Whenever liberals feel the need to justify a disgraceful act — such as using human embryos as experimental fodder for their research — they twist language to obscure the act's grisly nature. When they want to squash a human embryo like an insect, they compare it to a mosquito. When they want to starve to death a comatose woman like Terri Schiavo, they call her a vegetable. CPR

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Zaslavaky and Frumkin in Reagan's Century City office.

The last time I met Reagan

The current uproar about the canceled Reagan miniseries reminded me of the last time I met the president. I had first met him when he ran for president and I supported him as a member of Democrats for Reagan (Yes, believe it or not, I used to be a Democrat. I didn't change – the Party did and I said goodbye when it left me. But that's another story). I met him again a few years later when I was invited to have dinner at the White House. It was an event honoring one of the African presidents – I don't remember who it was – but I do remember that my wife decided to change her hairdo just before we left the hotel and we were late getting to the White House, something that apparently happens very seldom. It caused a flurry of phone calls from Washington to my office in Los Angeles with the Secret Service wanting to know

'This is a man who saved our country. He saved Europe. He probably saved the world – and America as well. Are you kidding? I would travel a week, a month, just to shake his hand...'

BY SI FRUMKIN

Si Frumkin is publisher and editor of Graffiti for Intellectuals, *where this article originally appeared. Published bi-weekly,* Graffiti for Intellectuals *is available without charge. Write Mr. Frumkin at esfrumkin@adelphia.net or Southern California Council for Soviet Jews, P.O. Box 1542, Studio City, CA 91614.*

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where we were and why weren't we at the dinner. In the end it all turned out just fine – we enjoyed the dinner, my wife danced with the president who complimented her on her hairdo, and we chatted about the beautiful white horse he had just been given by the president of Mexico. Reagan insisted that the horse wasn't a gift. "That would be illegal," he chuckled, "it was a loan, just a loan until I give it back ..."

The last time I met Reagan was after he had left office – in the early '90s. I got a call from someone in Washington who told me that a member of the Russian Duma was coming to Los Angeles to see President Reagan and would I be willing to interpret during the visit, just in case the Russian didn't speak any English.

As it turned out, my services were not really needed. Ilya Zaslavsky, the young Russian parliamentarian, was quite fluent in English. We met in the lobby of the Century City office building where Reagan's office was on the top floor. Secret Service accompanied us into the elevator that didn't even have the top floor marked on its control panel. Our escort used a special key to go up and President Reagan came out. smiling, to greet us.

DISABLED RIGHTS PLATFORM

Our meeting lasted less than twenty minutes. Mr. Zaslavsky, who is handicapped and uses crutches to walk, had been elected to the Duma in 1989 on a disabled rights platform. In 1990, still in his early 30s, he was elected to head the Oktyabrsky district in Moscow, a ward of 230,000 people. (I got this information off the Internet. Mr. Zaslavsky never mentioned how important or clever or powerful he was – he just sat there, awed, listening to Reagan).

If it weren't for President Reagan the Soviet Union might still be a superpower and the U.S. might be isolated, alone, and facing a hostile Soviet-dominated world.

He and the president complimented one another, Mr. Reagan told a few jokes and we had our pictures taken. Eventually the ex-president presented Mr. Zaslavsky with an autographed copy of his book, we all smiled, shook hands and the visit was over.

We took the elevator down and when we walked into the Century City sunshine I had a brief farewell conversation with Mr. Zaslavsky. I then understood much that hadn't been clear to me before and probably isn't yet clear to the CBS executives who approved the Reagan miniseries. It will never be clear to the show business attack mongrels whose salaries exceed their I.Qs by a million to one.

I asked Zaslavsky what his plans were for Los Angeles and offered to drive him around and show him the city.

He seemed surprised. "I am not staying in L.A.," he said. "I am on my way to the airport. I am catching a plane back to Washington."

"Oh?" I said smiling. "It doesn't seem that it was worth a trip from D.C. to L.A. and back again just for twenty minutes with Reagan. Was it?"

HONEST AMAZEMENT

He looked at me in honest amazement. I had a distinct feeling that he thought me surprisingly stupid.

"Not worth it?" he said in disbelief. "What are you talking about? This is a man who saved our country. He saved Europe. He probably saved the world – and America as well. Are you kidding? I would travel a week, a month, just to shake his hand..."

He slowly turned and limped away. I stood there, embarrassed. Zaslavsky's contempt for my ignorance was well deserved.

He was right. Ronald Reagan did win the most important battle of the 20th century. He recognized the Evil Empire for the evil that it was, he took it on, and he won. He — and some of his successors, including the current president — recognized and believed that America's destiny and America's duty is to fight evil. If it weren't for President Reagan the Soviet Union might still be a superpower and the U.S. might be isolated, alone, and facing a hostile Soviet-dominated world. The mental midgets and historical illiterates who denigrate his accomplishments will be forgotten but the generations of those who will live in freedom, as free men and women, will honor his name. CPR

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The Tree and I

William R. Allen

In the center of my backyard, there is an old orange tree. It was there when my wife and I moved to the house in 1961. It has been an ornament of nature, nicely shaped and highly productive of excellent fruit. A few years ago, it began to show its age; the orange crops became ever smaller and then ended. The tree obviously is now dead — no fruit, no leaves, peeling bark. But it still stands, seemingly in unpretentious pride. Its period of production is over, but it sustains its stance of serenity.

As long as I am here, it will be permitted to remain until it falls of its own accord. My relation with the tree is partly sentimental: It has been a friend, not only to me, but to my wife, two daughters, and three dogs.

Further, while it is stark with its bare limbs, it is still beautiful to me. Old age and the dignity, if not the infirmity, of maturity, in both people and trees, can exhibit a particular attractiveness — even if the attractiveness is discerned only by the elderly.

Most important, the tree reminds me of me: Dead but still standing.

I have not yet fully expired, to be sure. Although decrepit, senile, and virtually braindead, I still perform a required variety of life's mundane chores. And I continue to teach part-time — or at least to conduct classes — at UCLA, even if the very young customers seem not prepared intellectually or psychologically fully to appreciate my erudition, wisdom, and insightfulness.

But much of life has drained away during the past three and one-half years, as my wife had to leave in June 2000, and the last of my noble dogs followed in January 2002.

I will eventually join them and others who have preceded in the innumerable caravan. The old tree and I will finally fall — and the greater loss may be deemed to be the tree.

Meanwhile, the tree and I can seek consolation, comfort, and courage in the assurance of the blind Milton that "they also serve who only stand and wait."

William R. Allen is professor emeritus of Economics at UCLA.

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New day for California schools?

Schools exist to teach, but bureaucrats exist to meddle. When the governor proposed moving $2 billion from tightly-controlled 'categorical' programs into classrooms, California's Teachers said: Let's do it.

WILLIAM E. SARACINO

Can the world's most famous body builder turn California schools, currently among the nation's 98 pound weaklings in academic performance, into the educational equivalent of Mr. Universe? We won't know the answer to that question for some time, probably several years and perhaps even longer. Early indications, though, are that the "Austrian Oak" is going to try, and that attempt should be one of the more fascinating political stories to watch during the governor's first term. Success or failure could impact far more than education.

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I won't belabor the statistics that prove the dreadful state of California's "publik skools," as such proof is ubiquitous (note to readers who attended those schools, ubiquitous means "everywhere"). In fact, if he achieves nothing else, the governor has gotten the educational reform argument off on the right foot by making the inadequacy of our public education system a given in the debate. That is a good first step.

Predicting the precise direction the governor will take on education involves a bit of tea-leaf reading. But some early signs are available, including: the appointment of former Los Angeles Mayor Richard Riordan as Education Secretary, the budget deal with the CTA, and the state of the state address. All three

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encourage anyone interested in seriously improving our schools.

Conservatives instinctively winced at word of the Riordan appointment, but that was mistaken. As mayor, Riordan shone in two areas, crime reduction and his efforts at educational reform. A centerpiece of his two terms as mayor were his high visibility, high stakes battles with the teachers' union and educrats. He not only led the battle himself but put a considerable amount of his personal fortune into the fight. Along with developer Eli Broad, Riordan spent millions rebuilding the L.A. school board from a teachers' union sock puppet into a real board that actually put students' education ahead of union orthodoxy.

Conservatives winced at the Riordan appointment, but that was mistaken. As mayor, Riordan shone in two areas, crime reduction and his efforts at educational reform.

But the victory was short-lived. Once Riordan left office the unions re-took the board. But Riordan showed that he had, and presumably still has, the stomach for a bruising political fight against tough opponents. In politics, that is often half the battle. In a fight with interests as entrenched as the education establishment, it is a *sine qua non* for success (public school grads, that means "essential").

The governor's budget deal with the CTA was also an eye-opener, in that the governor was willing to try in the first place, and in that it managed to get the union to let go of *any* money designated for the schools. The deal is also remarkable for what it actually did — and did not — do. Of the current $4 billion Proposition 98-mandated increase in funding, the CTA agreed to accept $2 billion of that this year, and not oppose the governor's budget proposals. Word in Sacramento is that the governor wanted to "cut" more (understanding that in Sacramento's Alice-in-Wonderland world any lessening of a projected-but-not-yet-received increase is called a "cut"). He decided to accept this small step forward, hoping to open a broad *détente* with the CTA and preserve his political capital for other education fights.

And in reality, the CTA knows things could have been much worse. Education accounts for more then 40 percent of the state budget. $2 billion is much less than 40 percent of the cuts necessary to eliminate the deficit. Also, the only reason this $4 billion was on the table at all was that the Legislature over-appropriated money for the schools in past budgets to the tune of $4 billion more than Prop. 98 guaranteed. That is why, despite this $2 billion so-called "cut," schools will receive more per pupil next year than this. The increased funding will cover enrollment growth and cost-of-living increases. And the $2 billion they will "lose" from the cut will remain a part of the base upon which the schools' future budgets are determined.

This explains why some Republicans in the Legislature contend that a more significant portion of the "deal" was the CTA's tacit acceptance of a side issue concerning "categorical programs" and "block grants." In education-speak, a "categorical program" is a program mandated — forced — on local school districts by the state. The money to run the program comes with it, but onerous strings and dictates from Sacramento bureaucrat know-it-alls come too.

Of about $4 billion currently in categorical programs, the governor plans to convert half — $2 billion — into "block grants" to school districts. This money will come without strings, other than broad designation of how the money must be spent. Detailed decisions on program structure and day-to-day administration are made — *mirable dictu* — by local officials. Schwarzenegger's state of the state address described this as giving "schools the freedom to spend the money as they — not Sacramento — best see fit to serve the children." Call it educational federalism.

One long-time Republican staffer conversant with education issues believes the real significance of the deal is its potential to drive a wedge between the CTA and unions representing non-teaching school employees. Again, in his state of the state speech, the

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governor called for repeal of SB 1419, the law that prevents schools from contracting out services such as busing and maintenance. Administrators at all levels, of course, are non-teaching school employees. This is a crucial issue. The right of local districts to "outsource" as a tool to reduce costs is an essential part of any effort to shift resources from administration into actually educating the students. And administration itself is bloated in most districts, as you would expect in any behemoth bureaucracy.

A recent Reason Foundation study pointed out that, according to the National Center for Education Statistics, only 54 percent of California's education spending is spent on instruction. That always reliable contra-indicator of governmental sanity, the Los Angeles School District, spends $84 per pupil on textbooks (90 percent of the state average), but spends $107 per pupil on Supervisors' salaries (*191 percent* of the state average).

The same Reason study cites a recent report by New York City Schools Chancellor Joe Klein, showing that school maintenance repairs done by outside contractors were 46 percent cheaper than work done by unionized labor. The report indicated that outsourcing maintenance would save the New York schools $20 million and provide each of the city's 1,200 schools with a $17,000 increase in funds for repairs.

This reform will be fought tooth and nail by the unions, and indeed the Democrats have already bottled this idea up in legislative committees. But the mere fact that the governor floated it, and has told GOP legislators he is committed to fight for the concept "in the long run," indicates that new ideas on educational matters at least have a place at the table.

Further on in the state of the state address, in a section ostensibly dealing with making government more efficient, Schwarzenegger said "we have a state purchasing program that is archaic and expensive. I say modernize it." Not very dramatic sounding actually, but according to Sacramento insiders what he has in mind — not just for education but for all aspects of government purchases — is the "reverse auction" concept. This essentially is a revved up guarantee that the lowest bidder will get the contract, something that is increasingly rare in state purchasing. Given what the schools purchase each year, savings here could be substantial.

The governor's proposals on education, taken as a whole, represent at least a few steps away from business as usual and in the right direction. They are a good starting point. True reform of the system here in California would eventually entail slaying the Proposition 98 sacred cow, and admitting that the funding level for education — as with every state program — should be based on need, not on an arbitrary percentage of total state spending. That battle is a long way off, but Republicans conversant with education issues and the new administration don't rule out a re-elected Governor Schwarzenegger tackling that.

For now, the insider view is that he has three main goals in the education arena: rationalizing the school finance system; continuing to switch rigid categorical programs into flexible block grants; and equalizing spending between rural and urban districts so that the rural (which happen to be largely Republican) districts are no longer short-changed as at present. The governor's office believes these three accomplishments would contribute to a powerful education component of a re-election campaign.

On a post-election, pre-inauguration trip to Washington, D.C., Schwarzenegger dropped into the anniversary dinner for the Center for Education Reform, the nation's premier think tank devoted solely to educational choice and free market solutions for schools. The CER — at the governor's invitation — plans to be an active conduit for educational reform ideas into the corner office.

So far we can say the governor has stepped off in the right direction. His team, particularly Finance Director Donna Arduin and Education Secretary Dick Riordan, includes key individuals willing and able to take on entrenched interests in a prolonged battle. If the governor too, and his full education team, prove willing to stay at this for the long run, enduring the daily calumnies of the entrenched interests whose hold they are trying to break, education will continue to be among the most consequential, interesting battles to watch. It could even define this governor's first term. CPR

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WIDE OPEN TOWN

SACRAMENTO IN THE ERA OF RECALL

JOHN KURZWEIL

SACRAMENTO HAS once more become an open city. The left-wing domination of the last five years is ended, but it has by no means been replaced by conservative control. Where Republicans had *no* say, they now have a *chance* to influence government; where Democrats did mostly what they pleased, they now must fight. That is the news emerging from the opening weeks of the Schwarzenegger administration. That is the sea change the recall (and the five years of misrule that preceded it) have so far brought to California.

Both Parties have seen success and failure in these opening weeks, and Republicans, at least, show signs of learning from their early mistakes. The GOP gained the political momentum with the Davis recall and election of Arnold Schwarzenegger, and kept it through his reversals of the car tax hike and licenses for illegals. Republicans then dropped the reins with the governor's needless compromise (not to say collapse) on the spending cap/bonds issue, but regained it with his bold use of emergency executive powers to divert spending to local governments (mainly for police and fire protection) from less vital and more easily trimmed government operations (*i.e.*, the Department of Motor Vehicles). Besides averting a local government funding crisis, this deft ma-

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neuver defeated a Democrat squeeze play designed to set the governor, already weakened by his retreat on the spending cap, further back on his heels. Instead, Schwarzenegger surprised the Democrats, setting *them* back on their heels, where they have remained, more or less, ever since. In Sacramento, as Holmes used to say, the game is afoot, and either Party can play.

This game is actually a pair of related contests — one over policy, the other over politics — that parallel and intimately affect one another. On policy, Republicans have so far won their car tax and license victories, although these were really already won in the recall itself, their formal reversal being more a matter of cashing in one's chips, the game being over. On their first major effort to *shift* policy under Schwarzenegger — to cap spending — Republicans were rebuffed. This early skirmish involved this ballgame's key policy issue. As described by the left-wing *L.A. Weekly,* the spending cap battle pits those who think of "government as a solution rather than a root problem" against "the philosophy that the best destination for a tax dollar is to remain in the pocket of the taxpayer." Republicans' drive for a cap, the *Weekly* explained, "almost succeeded in using the budget crisis to reshape the very concept of government in California for years to come. Even when the economy improved and tax revenues rose," the paper's socialist writer lamented, "the collected dollars could have gone only to a 'Budget Stabilization Fund,' for such purposes as retiring debt or tax refunds. But not for expanded services or programs." Spending every available dollar to "expand services and programs" as soon as "the economy improved" was, of course, exactly how Davis and the Democrats, beginning in 1999, set California on the road to fiscal chaos. Republicans missed this early opportunity for major reform in the policy war, primarily through missteps in the parallel *political* battle. As I wrote above, they have since largely recovered the political momentum; it remains to be seen whether they have learned enough from this episode to win next time on the critical issue of restraining a government that keeps forgetting it exists to *serve* the people, not consume them.

This early ebb and flow in the political battle deserves a closer look.

Politics — round one

Fresh from a string of quick triumphs beginning on October 7, in early December the Schwarzenegger administration gave GOP legislators "marching orders," as one lawmaker put it, to put up a stout defense in the Legislature of the governor's spending cap proposal, while doing everything possible to "chew up" the Democrats' alternative plan. The liberals' alternative consisted mainly of requirements that the state pass a balanced budget without new borrowing (excepting, as a one-time measure, the proposed current year $15 billion in bonds) and that a percentage of revenues fund a reserve account beginning in mid-2006. Republicans found it easy to "chew up" this plan, presented as a bulwark against irresponsible spending. As Jean Ross of the nonpartisan California Budget Project reportedly said after Schwarzenegger signed off on what was, in the main, this very same Democrat proposal, "The reporters who haven't read the budget agreement are the only ones who are calling it a spending cap." Reportedly, she said it contained *no* cap, only "a mechanism for funding a reserve."

Back in the first week of December, enthusiastically obeying their "marching orders," Republican lawmakers had pointed out that such a "cap" was simply irrelevant to the problem the entire exercise was supposed to address: officials' habit during times of surplus of irresponsibly committing the state to huge new spending that proves unsustainable when revenues contract. In Tom McClintock's now-famous encapsulization: 21, 25, 40 — during Davis's first four years in office, California saw a combined rate of population and inflation growth of 21 percent, state revenue growth of 25 percent, and state spending growth of 40

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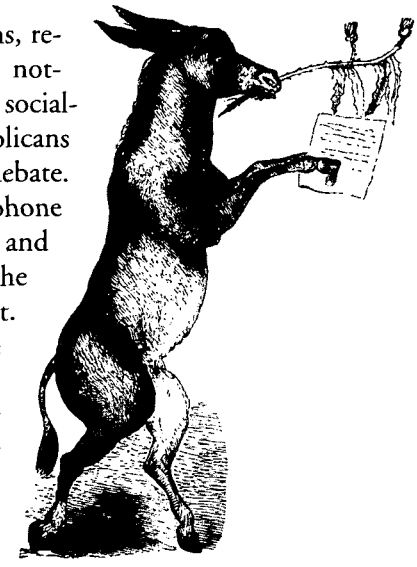
percent. When the economy slowed down, no one in a position to shape policy proposed to go *back* to spending levels that lowered revenues could justify; and if anyone so placed *had* done so, he would have been ignored or, if necessary, trampled.

The notion that government operations can and should expand and contract in harmony with its revenue flow ignores political reality. Every new dollar going out immediately creates its own constituency demanding that the flow go on forever. Those receiving the wealth do not shoulder the burden of creating it, and therefore so see no reason that it should diminish just because the productive sector is suffering a contraction. This is socialism's *always* fatal flaw and, human nature remaining unresponsive to efforts to change it, the flaw *always* operates in just this way. The Assembly Budget Committee's chairman, Democrat Jenny Oropeza, supplied a demonstration when, during the early December debate, she said her Party liked the $15 billion in bonds the governor proposed, but that "compromise" would be required on spending controls. GOP Assemblyman Ray Haynes answered that the bonds *were* the compromise. In the Senate, Tom McClintock pointed out that "There are only three ways to remedy a deficit. You can raise taxes — in a state that already suffers one of the heaviest tax burdens in the nation. You can borrow money — in a state that is already up to its eyeballs in debt. Or you can reduce spending — in a state that is now spending a larger portion of people's earnings than at any time in its history. I would think the choice would be self-evident." To normal people, yes. Not to those like Jenny Oropeza viewing reality through socialism's cockeyed vision.



But most Californians, reports to the contrary notwithstanding, are not socialists. Haynes says Republicans were winning the debate. "We could tell from phone calls to our offices and from the press that the public was getting it. Another week, and the Democrats would have caved." Friday of that first week, the governor delivered a pep talk to the GOP caucus, urging them to fight on, telling them "we're going to get the cap we're after."

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But then Schwarzenegger flew to a weekend retreat of the state's Congressional delegation and was told, reportedly by veteran advisor to Republican chief executives George Shultz, now of the Hoover Institution, and others, that he *had* to get a deal. For Republicans, this devotion to the imperative that a deal *must* be made seems almost as intractable as the left's conviction that government-must-grow-forever. Ronald Reagan on at least three occasions as governor and president agreed to tax increase deals with the opposition that betrayed his mandate and deeply wounded his political strength. George Bush I fatally undermined his presidency by betraying *his* mandate ("read my lips") in a foolish tax raising deal with Democrats. Pete Wilson, in a tax hiking "compromise" with his opponents his first year in office (one he himself afterwards likened to General George Custer's adventures in the valley of the Little Big Horn), managed to end 30 straight years of constantly increasing state revenues. His 1991 tax deal produced the first year-to-year drop in revenues the state had seen

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since 1962. Like these previous GOP chief executives, Arnold Schwarzenegger, on returning to Sacramento, closeted himself with the Democrat foe, ignored the Republican lawmakers who the previous week had climbed out on a limb on his instructions, and cut yet another bizarre "deal" that effectively sawed the limb off. Legislative Republicans suddenly found themselves, for the sake of Party unity and to maintain the governor's position as their leader, required to vote "aye" on the very plan they had enthusiastically "chewed up" only a few days before. In a small cock-a-doodle-do of victory, state Senator Sheila Kuehl said of the spending cap, "I think he [Schwarzenegger] came 'way over to the Democrat side. He moved enormously. There's no question." No question existed either, despite a strained surface placidity, that the "good feeling" among legislative and administration Republicans created by Davis's ouster had taken a pounding and was just short of shattering.

Politics — round two

Democrats, emboldened, naturally, immediately began organizing a power play intended to embarrass the governor still further while squeezing him into backing a half-cent sales tax increase. The same night the Legislature passed the impishly-titled "balanced budget" amendment, Republicans tried to bring up pending legislation to replace $2.5 billion for local governments, including money for local police and fire services, that had been eliminated when the tripling of the car tax was rescinded. Although this funding was provided in a Democrat bill, authored by Assemblyman Alan Lowenthal, the majority Party greeted it with an emphatic "no" and promptly adjourned. Assembly Speaker Herb Wesson told reporters the governor would have to "compromise" to get his local government funding; he'd have to back the half-cent sales tax hike. Democrats said the Legislature would be called back "when we have a deal." A drum-beat then commenced, emanating from local government officials up and down the state, predicting the collapse of civil order if the governor did not do "whatever it takes" to win the funding. This could have been the collapse of the entire recall/Schwarzenegger mandate had things played out according to the Democrat script. But the governor tore up the script, as any conscientious actor, facing such poor plotting, would have done.

As soon as the Democrats adjourned, at least one GOP lawmaker told the governor's people he could be counted out of any "deal" to support a sales tax hike. He predicted that an effort to force one through would end "all good feeling" between legislative Republicans and the corner office.

Schwarzenegger evidently saw that a bold stroke was needed. When Department of Finance Chief Deputy Director Michael Genest suggested he might exercise special discretionary powers over state agencies' budgets, he acted.

Schwarzenegger evidently also saw that a bold stroke was needed. When Department of Finance Chief Deputy Director Michael Genest suggested he might exercise special discretionary powers over state agencies' budgets (given the governor in the current ['03-'04] budget bills), he acted. Never, of course, expecting to see these powers used by a Republican, Democrat budget negotiators last year (in AB 1765, sec. 27, and AB 1756, sec. 56) gave Gray Davis au-

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thority to declare, if necessary, a fiscal "emergency," automatically authorizing agency spending cuts of up to 5 percent *without legislative approval.* Democrat refusal to pass Lowenthal's car tax "backfill" legislation had created just such an emergency, as attested by the howls coming from (mostly Democrat) local officials from Crescent City to San Diego. On December 17, word came the governor would declare the emergency next day, diverting the savings to fund local government, most importantly police and fire services.

"I was elected by the people of this state to lead," the governor said. "Since the legislative leadership refuses to act, I will act without them. We must protect the people in this state and give the cities and counties the money we owe them." As to policy, this action immediately ended an entirely artificial "crisis." No one, to my knowledge, so much as hinted that anything serious, much less seriously bad, would result from the relatively small necessary cuts to other agencies (which, in any event, will probably prove to be mere reductions in scheduled increases).

As to politics, the results were immediate and dramatic. "Democrats stunned by Schwarzenegger use of 'emergency' powers to cut spending, fund cities" reported *CPR's* companion publication, *Capitol Watch.* Democrat Assemblyman Joe Nation told reporters, "My reaction, like a lot of my colleagues, was one of surprise." The opposition was not surprised to find that the governor possessed the authority he exercised — conservatives in and out of the Capitol had been urging him to employ it since October 7 and Democrats certainly were aware of what they themselves had put in the budget. No, the surprise was that any Republican executive would actually *use* the authority. Bear in mind, GOP chiefs from Reagan to Wilson had established a virtual culture of cave-in whenever negotiating became tough (one the new governor had reiterated only days earlier). "Legislative Democrats evidently thought they had Schwarzenegger on the run" after the bonds deal, *Capitol Watch* reported. Then, caught flat-footed by the governor's bold stroke, "Democrats reportedly spent Thursday morning in closed-door meetings considering how to respond." The Capitol consensus is that they are still considering.

Republicans were instantly revitalized. They resumed calls for detailed analyses of state programs' efficiency and effectiveness as the key to taming Sacramento's metastasizing profligacy. They faulted lack of accountability for the state's spending crisis. "Take, for example, a state jobs program," said one Sacramento policy expert. "The program's purpose is to place people in jobs, right? But no one in government knows — because no one asks — how much we are spending for how much success. A typical government 'audit' establishes that the agency was told to spend X dollars to train X number of people, that it spent the money and put the mandated number through training, and that's it. No cost-benefit analysis is done, no effort is made to identify the most efficient methods and people or the least efficient, no one even asks how many trainees got jobs when it was all done." Republicans called for an end to the Capitol's "ingrained culture" of non-accountability, urging that "the governor order his people in finance and throughout the administration to begin analyzing programs for efficiency and effectiveness, then cut the waste and reward what works."

The governor, meanwhile, has addressed the twin miscues of failing to consult with legislative Republicans and of allowing himself to be outmaneuvered by Democrats. Capitol sources say they believe he now thinks he gave in too early on the spending cap, and his quick, decisive action on local funding bowled the opposition over. Also, whereas he had left Republicans out of the bonds deal negotiations with Democrats, he called in *only* GOP lawmakers to discuss details of his first budget the last few days

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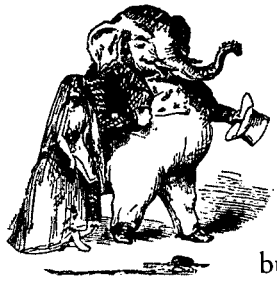
before announcing it January 9. Democrats' first look at the spending plan came with the public announcement.



Schwarzenegger's first State-of-the-State address and the new budget itself constitute perhaps the most convincing evidence that momentum has gone back to the GOP. His speech squarely placed spending at the root of the state's budget crisis. He rejected Democrat demands that government take more from California citizens in higher taxes, instead calling for an end to "irresponsible" state spending. "Over the last five years," the governor said, "the state's income has increased 25 percent, but spending increased by 43 percent. This was irresponsible." Echoing a theme GOP legislators stressed last year to defeat Democrat tax hikes, Schwarzenegger said California does "not have a tax crisis; we do not have a budget crisis; we have a spending crisis."

This straightforward statement of the problem, of both its causes and cure, has had a rippling effect in the larger debate. Even some Capitol journalists seem to be catching on. At least one article on the new budget, skipping the standard script about fat cats oppressing the starving poor, actually began with the following lead: "Gov. Arnold Schwarzenegger seeks in his budget proposal to rein in the state welfare policies that expanded continuously under Democrats since 1999, signaling his commitment to shield the taxpayers who have funded this growth from paying more." The article went on to report that "Costs for Medi-Cal, California's version of Medicaid — the federal health insurance program for the poor and uninsured — have increased steadily for years. But costs have skyrocketed since 1999, increasing 870 percent, from $158 million general-fund dollars to nearly $1.3 billion, even though the amount of recipients grew only 23 percent, according to Schwarzenegger's finance department." Democrats, the report said, "expanded the number of Californians eligible for Medi-Cal, and added new, free benefits — including many not available to taxpayers who pay for their own insurance.

"At 15.3 percent, more residents use Medi-Cal per capita than in any of the 10 largest states — it is no longer necessary to be poor enough to qualify for welfare to obtain Medi-Cal — and Schwarzenegger cites CalWorks' work requirements and eligibility rules as more lenient than 20 other states. He said California faces a $60 billion deficit by 2006 without significant cutbacks and program reforms."

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Democrat disarray

Democrats, meanwhile, have been thrown into disarray. The recall revealed a split in the opposition's legislative ranks between a so-called "war party" demanding a strategy of confrontation and no compromise with Schwarzenegger and Democrat lawmakers more inclined to try to work with the governor. Just after the bonds deal, the "war party" argued their side had been vindicated, that the governor's retreat on the spending cap proved that the way to win in post-recall Sacramento was to push, and push hard. But Schwarzenegger's emergency powers declaration reversed the Democrats' internal debate. The "work with him" faction now says confrontation has failed. Fremont Democrat John Dutra is considered leader of a dozen or so of these more moderate Democrats in the state Assembly. Known in some GOP circles as the "Mod Squad," they have begun to assert themselves in various ways. "In the past,"

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a GOP Capitol strategist said, "moderate Democrats had a settled way of dealing with left-wing bills under a Republican governor — voting for them and letting the governor veto them later, thereby avoiding antagonizing their more liberal colleagues while also escaping responsibility for helping enact bad laws. But under Schwarzenegger this seems to have changed. In some cases, they are voting to kill bills they evidently consider extreme." Republicans point, as an example, to a Democrat bill for new taxes on alcohol that died recently in the Assembly Health Committee *for lack of Democrat support.*

The "Mod Squad" also appears to have played a role in determining the Democrats' choice of a new Speaker. Although neither Speaker-to-be Fabian Nunez nor losing rival Jenny Oropeza are considered among these Democrat moderates, at one point in the contest to replace Speaker Herb Wesson both Nunez and Oropeza counted 18 solid votes in their corner. The moderates saw the stand-off as a possible opportunity. They invited each candidate to be interviewed by them as a group. Nunez reportedly made a straightforward plea for support. Oropeza, appearing later, reportedly informed the group she had cut a deal with Nunez who had agreed to support her and become majority leader and that, therefore, the issue was settled. The "Mods" were skeptical, having just recently heard from Nunez. As it turned out, they threw their support to Nunez who is now going to be Speaker. The Capitol rumor mill predicts that the moderates will assume greater power and prestige in the form of committee chairmanships and other organizational perks when Nunez organizes the lower house.

The governor's strategy now appears to be to pass his $15 billion in bonds on the March ballot as a one-time expedient to be followed by real spending reform.

The alternatives to the bonds are immediate real spending restraint or higher taxes or both. Republican lawmakers disinclined to back the bonds like tax hikes even less; Democrats preferring tax hikes to borrowing like the threat of spending restraint even less, so an uneasy bipartisan coalition for the bonds as the least of various evils may be forming in the Capitol behind the governor's leadership. We will have to wait and see how much develops on that.

In the Sacramento policy "ballgame," the key issue is the Democrats' unstated "Brezhnev Doctrine" with regard to spending: all bargaining begins with the question how much more of the taxpayers' money will we spend this year? A large increase is normal, a small one is "painful" and "heartless," little or no increase is "draconian," "extreme," "intolerable." Under no circumstances can the debate be permitted to move so far as to propose any real roll-back of ground already conquered, *i.e.,* actual significant reductions in total spending to, say, levels of even a few years ago. The vast spending increases of Davis's five years must at all costs be protected. What we have taken is off the table; what you still have is negotiable — the Sacramento Democrats' Budget Brezhnev Doctrine.

This is a hard-edged, ideological formulation, irrelevant to California's genuine governing requirements and not supported by any significant portion of the population. Republicans will know they have won significant ground when they replace the Brezhnev Doctrine with budgeting based on sound assessments of how much government the state really needs, how much it can afford, and how much is actually both effective and beneficial. Strange as it sounds, such a common sense approach would represent a radical departure, a reshaping, as *L.A. Weekly* put it, of "the very concept of government in California" — trashing ideology in favor of rational governing: an impossible dream? Perhaps yes, at least it was before October 7. But now, somehow, anything, even common sense, seems possible in wide-open, post-recall Sacramento.

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Taxes & Torts *in* Texas

The Honorable Rick Perry

Texas, facing many of the same crises afflicting California, has enacted dramatic reforms, most of them consisting mainly of obvious common sense applied to what are routinely written up as "intractable" problems. To show how another large state is moving forward, CPR *reprints the following excerpt from remarks delivered December 9 at The Heritage Foundation by Texas Governor Rick Perry.*

Among the states, spending increased by 39 percent during the economic boom years of the late 1990S. When the dot-coma bubble began to burst and the economic engine finally began to cool, it was inevitable that many states would have new spending habits they could no longer afford. There are two fundmental choices that must be made in tough budgetary times — especially in states like Texas where the constitution requires a balanced budget — and that is either to raise taxes or to control spending. I believe that when the economy softens, it is precisely the wrong time to raise taxes. Our families and businesses should not have to shoulder additional sacrifices so government doesn't have to.

Zero-Based Budgeting

We welcomed the New Year in Texas with the news that the state government was nearly $10 billion in the hole, representing roughly 16 percent of what we spend in state general revenue. It was a huge challenge — one that would require more than a little tinkering with the levers of the government machinery. It was time to overhaul the engine.

The Texas Legislature meets only 140 days every two years, though there is a movement afoot to change that to two days every 140 years. And based on the refusal recently by some legislators to show up for work, I think that movement is gaining momentum.

But with a part-time Legislature, tough decisions must be made quickly. When we convened in January, we did two things in short order. We required nearly every state agency to produce cuts of 13 percent for the remainder of the fiscal year. And second, because Texas elected its first Republican majority in 130 years, legislative leaders joined me in a new approach to budgeting. We started at zero.

We scrapped the practice that had gone on for decades — the writing of new budgets with the previous year's budget as the starting point. Instead, we viewed tough economic times as a unique opportunity to build government anew, reshape priorities, and refocus its mission.

Every state agency had to explain their priorities and identify ways that they could create additional savings. No government program or government expenditure was immune from inspection. And we refused to budge from our position of "no new taxes" even as the voices of big government began to fill the editorial pages and the halls of the state capitol with outrage.

The proponents of bigger government have complained I have been hardheaded in my opposition to tax hikes. They call it political calculation. I call it an act of principle. We often hear the voices of those opposed to budget cuts. Well, they have a right to be heard. But what about the voice of the taxpayers — the men and

The Honorable Rick Perry is governor of Texas. This article is excerpted from Heritage Lecture #814, published by the Heritage Foundation and available at: http://www.heritage.org/Research/Taxes/hl814.cfm

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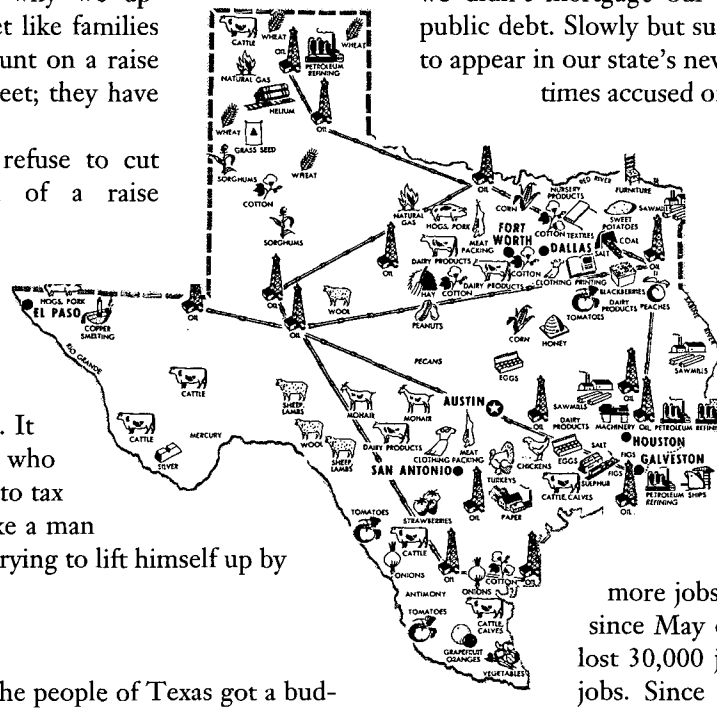
women who run the drycleaner up the street, who drive the trucks that put food on our tables, and who pay the bills and pay the taxes and represent everything that is best about America?

They are the quiet engines of progress, the silent majority of Americans, and they are wise enough to know that it is not the size of government that defines the compassion of our people, but the priorities we set. That is why we approached our state budget like families do. Our families can't count on a raise in salary to make ends meet; they have to address spending.

When the politicians refuse to cut spending, their version of a raise amounts to your version of a tax increase. And it's not right. No government in the history of mankind has ever taxed and spent its way to greater prosperity. It was Wilson Churchill who said, "For a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle."



New Priorities

At the end of the day, the people of Texas got a budget that did not contain one cent in new taxes. We consolidated 12 health and human service agencies down to five, while increasing education funding by more than a billion dollars. We pared down spending on the state education bureaucracy by more than $70 million. And we invested in jobs because job creation in the private sector is the one proven revenue generator we have.

In fact, we created a new $295 million enterprise fund to attract new jobs and employers to Texas. In tough economic times, a lot of leaders like to talk about jobs. But you can't create jobs by passing the tax hikes that kill jobs.

Now, I'm not going to stand up here and tell you I signed the perfect budget. It was a product of consensus and compromise. Some are really worked up about new fines and fees on drunk drivers to fund trauma care and highway safety. The Legislature also used payment deferrals continued from past budgets and drew down $1 billion from our state's rainy day reserve fund.

But instead of spending every dime of federal assistance sent to the states, we set aside hundreds of millions of dollars to deal with future bumps along the road to economic recovery. Our budget reflects new priorities and a new way of governing, but fundamental shifts in governance are not fully accomplished overnight. Rome was not built in a day and neither was bureaucracy. It takes time to implement lasting, fundamental reform.

But we avoided the lunacy of selling tobacco revenue bonds at less than 50 cents on the dollar. We didn't raid our pension funds. We didn't fund a bunch of ongoing obligations with one-time sources of funding, and we didn't mortgage our future on a mountain of public debt. Slowly but surely, good news is starting to appear in our state's newspapers — a group sometimes accused of shunning good news.

Texas public schools continue to advance. Hispanic enrollment in Texas universities is at an all-time high. Our bond rating has remained steady and strong, and the economic storm clouds lingering since the twilight of the Clinton Administration are clearing.

Last month we added more jobs in Texas than any month since May of 2000. While California lost 30,000 jobs, Texas gained 28,500 jobs. Since New Year's Day, I have stood up time and again with entrepreneurs and business leaders across Texas to announce thousands of new, private sector jobs adding billions of dollars to our economy. The signs of an economic recovery are there.

And I don't think it is a coincidence that Texas is now at the forefront of good economic news because instead of spending what we have always spent and raising taxes to support a growing spending habit, our new two-year state budget will spend $2.6 billion less in general state revenue. It represents the first time since World War Bi that the Legislature has spent less general revenue than the previous one.

We would be wise to remember that the wealth of our people is not defined by how much money is in government's coffers, but taxpayers' pockets. Jobs are not created by government, but by the ingenuity of the private sector. But government can unleash private sector ingenuity by removing the impediments to job creation: high taxes, over-regulation, and frivolous litigation. Many states have sought to go a differ-

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ent route in tough economic times, including some states with Republican governors. I am not here to criticize my colleagues, but I will say this: If even Democrats refuse to campaign on big government ideas, why would any Republican govern on them?

When Bill Clinton stood before the Congress and said the era of big government is over, we reached a pivotal point in our great national debate. The liberals knew they could no longer win on the merits of their own ideas, but they *could* win based on the theft of our ideas. Suddenly, the other side was for deficit reduction, welfare reform, and a middle-class tax cut. Conservatives do not have to worry about selling conservative ideas when Democrats are running on them. Our task is not to redefine a conservative vision, but *always* to articulate one.

Lawsuit Reform

On no issue is there a more stark difference than on lawsuit reform. The Texas success story can be traced to two historic achievements: Despite a $10 billion deficit, we balanced our budget with no new taxes, and we passed the most sweeping lawsuit reforms in America.

Our health care system was in a state of crisis. We had neurosurgeons and other specialists leaving high-risk areas, or the practice of medicine altogether, because of the threat of frivolous lawsuits and the reality of skyrocketing medical liability rates. Today in Texas, three out of five counties do not have an obstetrician. That's a hardship for many pregnant women in certain areas of our state, but especially women with high-risk pregnancies.

A large part of the problem was a litigation climate rice with abuse. There was a jackpot mentality among some in the legal profession who were simply looking to strike it rich with one big verdict. There have been so many frivolous medical claims filed that seven out of every eight are dismissed without payment. The Texas airwaves, billboards, and telephone books are filled with advertisements from our robust personal injury bar. One trial lawyer even opened an office across the street from a children hospital advertising his expertise in birth injury cases.

We decided to address this issue head-on before one more good doctor left our state. Legislators placed caps on arbitrary non-economic damages. Individual health care providers are no longer subject to non-economic damages above $250,000 per case. Health care institutions are subject to a separate $250,000 cap with an entire claim not to exceed a total of $750,000 in non-economic damages.

But we took it one step further. To prevent the legal delays that would have ensued for years and to give Texas patients and doctors immediate relief, we asked voters to approve a constitutional amendment to give legislators the authority to limit non-economic damages in all civil cases.

And despite a $10 million advertising blitz by the Texas trial lawyers, 11 days ago Texas voters protected their health care, saved their doctors, and restored balance to our system of civil justice by passing Proposition 12. Our tort reforms extended beyond the practice of medicine. We passed into law the most sweeping tort reform measures in the nation. The *Wall Street Journal* called it "Ten-Gallon Tort Reform," and said, "Texas not only provides an example for other states but also for Republicans in Congress."

Now, I'm not a lawyer by trade. I'm a farmer. But I know what a lot of entrepreneurs know as someone who helped run the family business: There is no greater job killer than a legal system run amok. We reformed our class action laws, allowing defendants to appeal class certification directly to the Texas Supreme Court to decide up-front, not after years of litigation, if the plaintiff has a class action. And we did something else regarding class action suits. Have you heard about plaintiffs' lawyers receiving millions in fees for a class action while the clients get nothing but coupons? Now, if the clients get paid in coupons, so do the lawyers!

We passed a new offer-of-settlement law. If a party refuses a settlement offer and receives less from a jury than what was offered at settlement, they get to pick up the other side's legal fees and costs from the date of their refusal. Texas created a new standard to ensure sued parties pay only their proportionate responsibility. Sometimes the individual or entity that causes the damage isn't in the lawsuit. Under our new law, you don't get blamed for what you didn't do.

We also reformed our product liability laws so innocent retailers are not left on the hook for a manufacturer's mistake. We enacted liability limits for good Samaritans, voluntary firefighters, charity volunteers, and teachers, who should not be sued for simply doing an important public service.

We closed loopholes that allow trial lawyers to venge shop, and we did something else that makes abundant sense: If it can be shown that failing to wear a seat belt contributed to a person's injuries, it can now be admitted as evidence in court. These comprehensive reforms restore balance to our system of justice while maintaining proper protections for Texans who are harmed. As a leading CAW told me, there is no better way to create jobs than to pass tort reform. We are doing everything we can to make Texas a state attractive for jobs and entrepreneurs, opportunity, and prosperity. CPR

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Still *Busy*

A critique of business lobbyist effectiveness brings confirming evidence to light.

My article last issue ("Busy Signals," *CPR*, Nov./Dec. 2003), pointed out that a relatively small number of pro-market lobbyists do more than their share of the work for their cause at the state Capitol. Also, it argued that maybe, just maybe, dues-paying members of some merchant groups, trade associations, industry organizations, and business coalitions are not getting the "bang for

BY ROBERT L. GIOVATI

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their buck" they expect from the lobbying they think is being done for them. I said the reasons were mainly (1) that the very idea of political action seems to drain all the energy out of many business owners so that they are disinclined to demand really effective lobbying even when they pay for it, (2) that, consequently, too many business lobbyists seem to lack passion for the cause they ostensibly represent as they go about their daily tasks, and (3) that reasons one and two appear to have combined to produce an atmosphere among a lot of pro-business lobbyists in which a *reputation* for "effectiveness" substitutes for actually being effective.

Turns out, writing that piece was a little like publicly remarking that the emperor has no clothes: as if a spell were broken, suddenly all sorts of people come up to me to relate stories in a similar vein. One acquaintance from the legislative wars told of a group that had asked him to appear at a hearing for a bill they supported. (This is called a "me too" appearance — after one organization or advocate takes the lead in testifying for or against some proposal, the rest of us get up and say "me too"). The "me-tooers" serve to make the lead advocate more persuasive by adding (to the good sense of their arguments) the appearance, at least, of broad, committed support. In addition, they supply the primary advocates with moral ballast: few of us like being out on the political island alone. Fighting the good fight is always easier with like-minded executive directors, industry representatives, lobbyists, or other interested parties standing behind us.

As if a spell were broken, suddenly all sorts of people come up to me to relate stories in a similar vein.

So my associate arrived at the committee hearing ready to do his "me too" thing after the folks who invited him made their opening comments. But when the chairman called for arguments in favor, nobody stood up. The outfit that had originally asked my associate to attend was nowhere to be found. Since there seemed to be nothing else to do, this gentleman, with some reluctance, rose to speak for a bill he hasn't seriously analyzed. Fortunately, the chairman did not grind him into dust on the legislation's finer points. Afterward, he asked the people who'd asked him to help support *their* bill why they hadn't shown up. Oh, that bill (he was told) ... not a high priority for us. Excuse me?

Another colleague told me of a lobbying organization that constantly touts their legislative muscle to virtually anyone within earshot. Yet, my friend said, he had never seen the top brass from this highly vocal group testify at a hearing.

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Third House

I have encountered other confirming examples of such empty *braggadocio* in much of the printed material lobbying groups send out from Sacramento. "Me too" activity is routinely elevated to "we were the driving force in this debate" status, with the lobbyists taking "lead dog" bows for landmark achievements even though they really contributed no more than many organizations. This is more than merely portraying your endeavors in the best possible light, which is to be expected. This is inexcusable embellishing of the record that stretches credibility to the breaking point while capriciously diminishing the labor of others.

It also indicates the degree to which plain unreality has overtaken much of the lobbying that purports to serve businesses' interests in the state Capitol. For example, these puff pieces illustrate how the wording of a paragraph can be creatively "shaded" to imply (subtly — or not so subtly) that the group involved played a much greater role than they really did in a given legislative effort without actually coming out and saying so. Although an unsuspecting reader is left with the convenient impression that the publishing organization contributed decisively to the final outcome and that its elevated reputation has once more been vindicated, those who know better find the organization has supplied itself what "intelligence" operatives call "plausible deniability." What appears in print is sufficiently ambiguous to allow a variety of interpretations, enough to get them off the hook if pressed on the matter. If you insist, unpleasantly, that the hype borders on the bogus, well, that's on you, pal.

Plain unreality has overtaken much of the lobbying that purports to serve businesses' interests.

It's often transparently phony, and the worst of it is that no one is supposed to care as long as they get away with it: some organizations' legislation-related literature gives the impression they think the sun wouldn't rise without them — and that's fine: just normal "business" promotion. No wonder the mission is so often lost in such a morass.

Of course, even the most dedicated legislative advocates falter on occasion: a bill they should be on is neglected, a letter arrives at the committee too late for the analysis, a hearing is missed, and so on. Nobody is supposed to be perfect. What counts is a persistent, level swing: an ongoing commitment to work and to try to be better at what you do this month than last, a commitment to give the most you can, not the least you can get by with, to remember, finally, that people are counting on you. Their financial health, perhaps their very survival, may largely depend on how well you succeed or fail. They've entrusted to you their hopes, dreams, and dollars. They deserve your best shot.

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CRITICUS

Advance Australia Fair

BY G.B. TENNYSON

*Australia's sons, let us rejoice,**
*For we are white and free;**
We've golden soil and wealth for toil,
Our home is girt by sea;

Our land abounds in Nature's gifts
Of beauty rich and rare;
In history's page, let every stage
Advance Australia Fair!

In joyful strains then let us sing,
"Advance Australia Fair"

*(*Indicates a disputed or subsequently changed line; thus, in modern PC version: "Australians all, let us rejoice, / For we are young and free." Criticus has, of course, used the most reactionary versions as his first entry. Note also that, when sung, the last two lines are repeated at the end of each verse.)*

AUSTRALIA IS indeed fair in just about all senses of that word, including one of the oldest, which, being possibly racist (as in "fair-haired boy"), has nevertheless remained blessedly undiscovered by modern word police. The least fair thing about Australia is getting there. The direct flight Los Angeles-Sydney takes more than fourteen hours. Given that at the American end one must be in the airport three hours in advance of flight, which in turn means leaving home an hour before that, it comes out that prior to the fourteen-plus hours aloft, one must have spent four pre-flight hours in transit or in the airport and of course another hour or so at the airport upon arrival. (Criticus excepted: he spent two hours plus at the arrival end; more later.) And on top of it, somewhere in mid-Pacific one loses an entire day, as the announcement comes over the loudspeaker that we have just crossed the International Date Line and it is now Friday, even though it was Wednesday when we departed.

Captain Cook and crew may have had a harder and longer time of it, but at least no time-change worries, for they lived by the sun; and Cook gained, for a time, a reward in the now frowned-upon second verse of the national anthem, *viz.*, "When gallant Cook from Albion sailed, / To trace wide oceans o'er, / True British courage bore him on, / Till he landed on our shore. / Then here he raised Old England's flag, / The standard of the brave; / With all her

G.B. Tennyson took it upon himself to add to his various titles, such as European Correspondent, the new one of CPR's *Antipodean Correspondent.*

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faults we love her still, / "'Britannia rules the wave!'"

Cook, of course, didn't actually discover Australia. That honor belongs to the early seventeenth-century Dutch, most notably but not solely Abel Tasman, who is remembered today in the name of the adjacent island of Tasmania. But the Dutch found nothing of interest in Australia and moved on. It remained for Cook in 1768 to claim the eastern coast of Australia for Britain.

It is a commonplace that Australia was settled by convicts, which is only partly true, but it may account for a certain general irreverence in the Australian character.

It was another twenty years before the first colony was established at Botany Bay close by modern-day Sydney, which means that white-inhabited Australia is just over two hundred years old. Botany Bay became famous, or infamous, for being the place to which convicts were "transported," as the term had it, for offenses committed in Britain, including of course Ireland, which seems to have supplied more than its share. Indeed, it is a modern commonplace that Australia was settled by convicts, which is only partly true (the First Fleet carried 750 convicts, 210 marines, and 40 women and children), but it may account for a certain general irreverence in the Australian character, to say nothing of the desire of many to detach Australia entirely from the British Commonwealth. One could not discern this from the patriotic third and fourth verse of the anthem. The third verse runs: "Beneath our radiant Southern Cross / We'll toil with hearts and hands; / To make our youthful Commonwealth* / Renowned of all the lands; / For loyal sons beyond the seas* / We've boundless plains to share; / With courage let us all combine / To advance Australia fair." (*PC versions: "To make this Commonwealth of ours" and "For those who've come across the seas.") The PC versions of the first and third verses are the only ones currently acceptable to the righteous.

The now forbidden fourth (like the second and fifth) is even more patriotic than the third and shows no hint of coercion in the choice to be Australian: "While other nations of the globe / Behold us from afar / We'll rise to high renown and shine / Like our glorious Southern Star; / From England, Scotia, Erin's Isle, / Who come our lot to share, / Let all combine with heart and hand / To advance Australia fair!"

Criticus expected to share the lot of the Aussies for only a few weeks, but he almost did not succeed in doing that. It happens that a longtime Australian friend (we'll call him Stephen) is a great admirer of Criticus's lime tree. Many years ago when he was returning from California to Oz (as the Aussies slyly like to refer to their country), Stephen took along a half-dozen or so Critical limes with the aim of using their seed to grow a lime tree of his own on the north side (remember, everything is reversed Down Under) of his house in Melbourne. It didn't take, alas, so Criticus, mindful of this deprivation, stowed in his luggage a dozen freshly harvested limes. By the time Criticus reached Sydney airport after the interminable and mostly sleepless journey and the loss of an entire day (that lamented missing Thursday), he was so groggy that the numerous signs and many disposal bins on the way to customs warning against importing almost anything, but especially fruit and edibles, just didn't register. But, when he got to agriculture inspection, the limes registered very well on the screening device, and Criticus was taken aside by a customs woman of most repellent aspect. It was a very disquieting scene, and Criticus will not reveal how he tried to lie his way out of it (with some success), lest his ruse be reported back to the Wicked Witch of New South Wales, *aka* Hatchet Face, who kept repeating, "Are you aware that there is a $350 fine for what you have done?" Criticus wanted to say, "Well, I hope it's $350 Australian," but realized that might sound a bit flippant.

Wicked Witch called over several other customs people, all of whom looked upon Criticus with the utmost disdain. Criticus repeated his lying explanation, so there ensued a hushed private conversation among the customs people, each casting many a baleful look in my direction. At last Wicked Witch-Hatchet Face

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came back and, holding the Critical passport in hand like a piece of dried dung, informed me that my passport number was being recorded and would be put into the computer for future scrutiny and possible reprisals should I ever set foot in Australia again. As for the limes, with their brilliant green shining through the transparent seal-locked bag and looking for all the world like a bartender's delight, they were held aloft by Wicked Witch and then ceremoniously dropped into a waiting trash bin, as though to intimate that a like fate awaited me in the event of any future transgression. Reluctantly she returned my passport and sent me on.

Is it any wonder that by the time I got into Sydney and the hotel, I was truly knackered? By blessed foresight Criticus had reserved a room at the Intercontinental Hotel Sydney, knowing that he would need maximum comfort after so long a flight. Even then there was a glitch, for the room I was sent to did not conform to the reservation specifications. Figuring that I had nothing else to lose, I called down and complained. At last Australia began to advance its fair self, for I was assigned a corner room on the top floor, the thirtieth, overlooking Sydney Harbour. A most compliant bellhop appeared and carried my luggage to the new room and cast open the curtain to reveal the stunning Sydney Harbour.

Butterfield's 1880 design for St. Paul's.

Melbourne's chief architectural jewel is St. Paul's Cathedral designed by the English Victorian Gothic Revival architect William Butterfield.

TIME FOR a drink, even without a slice of fresh lime. The much admired travel writer Jan Morris has somewhere written that Sydney is a boomtown without the boom. Criticus would cast it the other way about and say that Sydney has plenty of boom without being a boomtown. There is above all the magnificent harbor, a vast expanse marked with the occasional island and with seemingly endless inlets and small peninsulas dotted with hillside houses, a constant parade of ferries gliding across the water, and most strikingly the arching Harbour Bridge and the universally recognized Opera House spreading its wings like a radiant bird. It is striking from any perspective but especially so from the top of a high rise.

Being on my own in Sydney I did only the tourist things, but they were enlightening. There is a tourist bus service, with a bus setting forth every seventeen minutes, that provides a two-hour ride with commentary around the city stopping at twenty-two locations. One can get out at any or all of the stops, look about, and get on the next bus. A full-scale stop and ride excursion can occupy the entire day. Is this a common feature in other cities, with only Criticus ignorant of such? One can also take the harbor tour or, as I did, simply hop on any one of the ferries that depart near the opera house and ride across the harbor and back. The best such ride is the half-hour one to Manly, a beach resort recently become fashionable again, its harborside strand graced by a large stand of immensely tall Norfolk Island pines.

One adventure the acrophobic Criticus eschewed was the popular Bridge Walk, which involves climbing all the way up the arches of the Harbour Bridge for what must be a grand view. Riding across the bridge in a tour bus was good enough for me. In short, Criticus played the sedulous, amiable tourist and greatly enjoyed himself. He even learned (how could he not have known this?) that Australia is the world center of opal mining, so there are numerous shops specializing in the sale of opals, numerous grades and designations of opals, and numerous prices. Criticus bought some as gifts for the now-grown girls who once splashed in Venetian canals, only to realize after he had returned home that he had failed to turn over the duty free form the opal shop gave him with strict instructions to relinquish it at the airport. If this infraction ever gets to the eye of the Wicked Witch of New South Wales, then Criticus's future probably will never include Australia again, which he would much regret.

So it was on to Melbourne to visit the lime-challenged Stephen. If, as it seems to me, Sydney is

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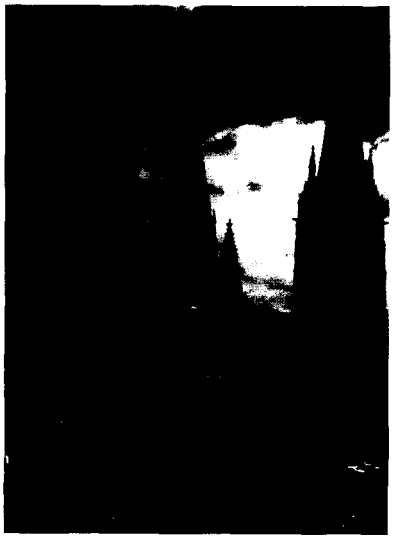
the Los Angeles or even the New York of Australia, then Melbourne is the San Francisco. Both are more English than just about any place in America, but Melbourne is more English than Sydney. Less spectacularly situated (though a huge project is underway to extend the harbor area closer towards central Melbourne), it nevertheless has preserved more of its nineteenth-century look than has Sydney.



St. Paul's as it appears today.

Implementation of Butterfield's plans for St. Paul's was underway, but Butterfield quarreled with the locals in charge and quit the project.

Its chief architectural jewel is the magnificent St. Paul's Cathedral designed by the English Victorian Gothic Revival architect William Butterfield. The story of the construction of St. Paul's offers a curious foreshadowing of the architectural imbroglio surrounding Sydney's Opera House (actually a complex of theatres and halls), which was designed but never seen to completion by the still-living Danish architect Joern Utzon, who had a falling out with the builders and left before the project was completed. To this day he has not returned to see the finished work, which during Criticus's visit celebrated the thirtieth anniversary of its completion. By comparison, in the 1880s, implementation of William Butterfield's plans for St. Paul's Cathedral in Melbourne was underway, but after some years Butterfield quarreled with the locals in charge and eventually quit the project, never having visited Australia and thus never having seen even any portion of the church, which was completed by another architect but which is still mainly Butterfield's design. And if, like Criticus, you dote on both Gothic and Gothic Revival architecture, St. Paul's is a must-see, with a magnificent Italian marble and alabaster reredos, Ruskinian encaustic tiles, and a breathtaking Ascension Chapel. Butterfield got some sort of revenge by designing another Gothic Revival Church in Adelaide, which was built exactly according to his specifications, though it too was never seen by the architect.

In addition to St. Paul's, Melbourne is justly celebrated for its shopping. Its central downtown area is dominated by "the Block," a series of shopping streets intersected by various arcades, some of considerable opulence. They recall in more numerous, concentrated, and negotiable form the shopping arcades off Piccadilly in London, but unlike the London arcades the Melburnian [sic] ones link to several large department stores as well. Shoppers are said to come from all over Australia and indeed the Orient to shop in Melbourne and to "do the Block," meaning to walk in, around, and through, via the arcades, the central shopping area. Criticus from his Stephen-recommended self-catering flat in South Yarra, the Georgetown, so to speak, of Melbourne, not only went to the central city and "did the Block" but also found a tour-bus arrangement similar to the one in Sydney that permits unlimited off and on again at its stops and does it all with a red London double-decker bus.

Melbourne seemed to Criticus to be not only more Victorian but also more English than Sydney. Both, however, are more ethnically various than anything I have written up to now would indicate. Although the dominant social and ethnic element is still British, including Irish, there are now sizable numbers of persons of southern European origin, especially Greek, and increasing numbers from southeast Asia and — perish the thought — from Muslim countries. Indeed, many Australians are quite sensitive about the fact that until the 1950s (happy decade!) Australia strictly enforced a "White Australia" immigration policy and of course largely disdained the native Aborigines. Today liberal guilt and political correctness are almost as evident in Australia as in the rest of the western world, and there is much tiresome talk about multiculturalism. The PC crowd looks downcast, instead of giving the finger, when some claptrap southeast Asian politician declares that Australia is not really an Asian country and won't be until half or more of the population is Asian. It is all very well for there now to be Aboriginal art displayed in shops and museums, but it is less heartwarming to

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find official policies actually encouraging immigration from all over the world. There are ads urging immigration in places like the in-flight Qantas magazine that show multi-hued faces much like ads in American magazines and on television that always include in any group picture representatives from every possible minority group. Criticus was almost moved to recommend to Qantas that such ads should also carry a drawing of a lime in a red circle with a slash through it, lest the unwary think of carrying fruit on their migration to Oz.

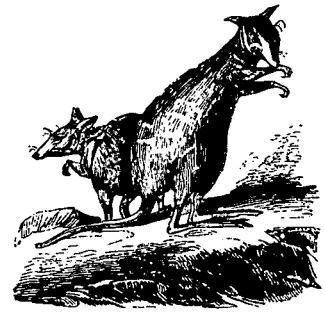
All of these signs, as well as the ubiquity of contemporary popular entertainment, make it clear that, although Australia is in the Critical view still fundamentally the England of thirty years ago (a comparison that would infuriate many Aussies, especially those who have never been to the Mother Country), it is certainly changing. Its relative isolation and strict entry controls happily slow down transition. Moreover, its desirable habitable area is only a small portion of the total continent. It is said that ninety percent of Canada's population lives within one-hundred miles of the U.S. Border; in a Down Under kind of mirror image, about the same proportion of Australia's population (of only twenty million) lives along the south eastern seaboard. In the case of Canada, if one goes much farther north, one hits ice and tundra; in the case of Australia, if one goes further north, one hits desert and eventually oppressive tropics. This still leaves a substantial area for future population, but most modern-day immigrants, as America has come to know, are of a different stripe from those of previous centuries. They are not Walter Knott's pioneers conquering the continent in Conestoga wagons. They are more like Emma Lazarus's "huddled masses" and "wretched refuse" ready to settle into enclaves within established cities and draw welfare benefits. All of which makes Criticus think that the Wicked Witch of NSW should be assigned to immigration control rather than agricultural inspection.

So, visit while there is still time. Learn, as Criticus did, the meaning of the letters that created QANTAS, what a *didgeridoo* is, why Dame Edna Everage calls her audience members "possums" as an affectionate term, what the "radiant Southern Cross" looks like, and much else. Then you will also join Criticus and Peter Dodds McCormick, author of the national anthem, in singing the forbidden fifth and final verse:

Should foreign foe e'er sight our coast,
Or dare a foot to land,
We'll rouse to arms like sires of yore
To guard our native strand;
Britannia then shall surely know,
Beyond wide ocean's roll,
Her sons in fair Australia's land
Still keep a British soul.

In joyful strains then let us sing
"Advance Australia fair!"

CPR



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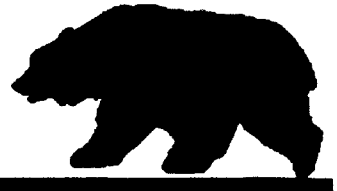

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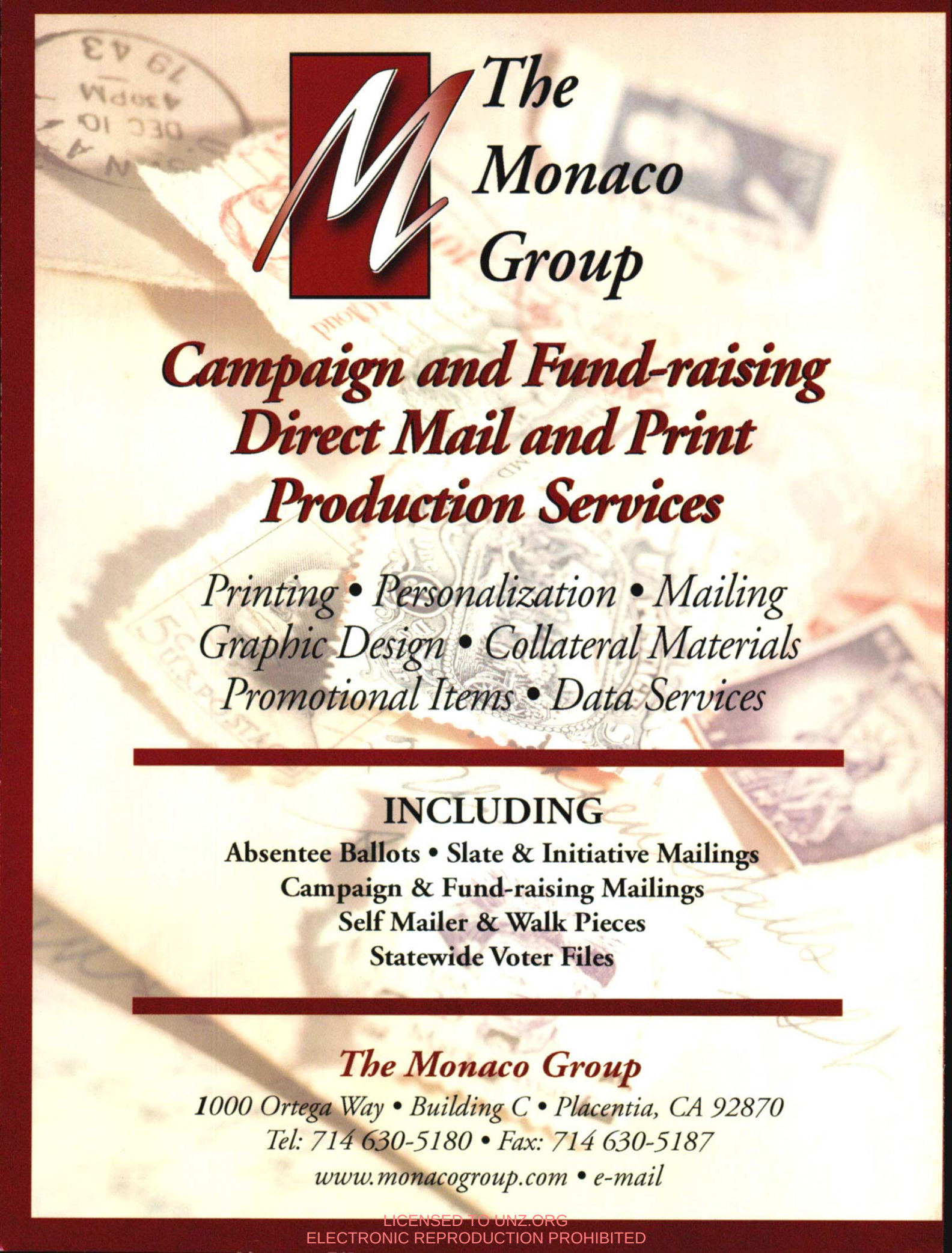
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